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November 15, 2021

**VIA ELECTRONIC FILING**

The Honorable Jocelyn Boyd  
Chief Clerk / Executive Director  
Public Service Commission of South Carolina  
101 Executive Center Drive, Suite 100  
Columbia, SC 29210

Re: Joint Petition of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC to Request the Commission to Hold a Joint Hearing with the North Carolina Utilities Commission to Develop Carbon Plan  
Docket No. 2021-349-E

Dear Ms. Boyd:

I am writing to respond on behalf of Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”) (collectively “the Companies”) to the letters submitted on Friday, November 12, 2021 by the Carolinas Clean Energy Business Association (“CCEBA”) and the AARP in response to the Companies’ petition and requested ex parte briefing in the referenced docket. This letter supplements and expands on the letter we submitted on November 12, 2021 responding to an objection by Google to the Companies’ proposed briefing.

Four interested parties - the Office of Regulatory Staff (“ORS”), Google, AARP and CCEBA - have now written the Commission about the Companies’ petition requesting a joint proceeding with the North Carolina Utilities Commission (“NCUC”). All support the ORS proposed alternative schedule by which the Commission would receive comments and address the question of whether it will agree to the joint proceeding request. Although the Companies remain concerned about the need for an expeditious decision on the joint proceeding,<sup>1</sup> they do not object to the ORS proposed schedule particularly since the ORS proposal provides a path for a decision to be made by January 31, 2022.

With respect to the objections by Google and CCEBA to the Companies proposed allowable ex parte briefing, the Companies underscore that those objections assert no violation of law in what the Companies have proposed. The Companies are concerned about the efforts of Google and CCEBA to frustrate the lawful provision of information to the Commission—and the public—as proposed by

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<sup>1</sup> The Companies appreciate CCEBA’s recognition that HB 951, the North Carolina legislation giving rise to the request for a joint proceeding, “affect both North and South Carolina and the timelines in the bill are aggressive...” CCEBA Nov. 12 letter, p.1.



the Companies. The Commission is well versed on how to conduct allowable ex parte briefings, and the transparent manner in which the Commission approaches them is appropriate in these circumstances, particularly given the nature of the Companies' request. The Companies have filed a petition seeking to ensure that the Companies and interested parties have a seat at the table for North Carolina issues that will affect South Carolina. It is illogical that the objecting parties wish to limit lawful communication on a proposal designed to amplify voices from South Carolina. The Commission may have questions about the Companies' proposal, and the Companies wish to be responsive. Presumably, interested stakeholders would be interested in what questions the Commission asks and how the Companies respond, particularly if Google or CCEBA wish to request a responsive allowable ex parte briefing. Further, attending the Companies' briefing is an efficient way to inform an interested party's comments on this matter.

To the extent the objection by Google and CCEBA to the Companies' requested allowable ex parte briefing is motivated by a concern that the briefing would provide an unfair advantage to the Companies, that is simply not the case. The provisions of §58-3-260(C)(6)(a)(iii) explicitly prohibit any party asking for, or any Commissioner giving, any commitment during an allowable ex parte briefing regarding any issue discussed during the briefing. Members of the Commission are in effect required to maintain an open mind and to use the briefing as an opportunity to gather information rather than make decisions. In addition to these statutory requirements, the Commission's longstanding practice of conducting allowable ex parte briefings publicly, in its hearing room and with a virtual option, has promoted transparency that allows all interested parties to be assured that no unfair advantage is gained because of the briefing.

The Companies' agreement to the ORS proposed alternative schedule for comments also supports the rejection of the objection by Google and CCEBA to the Companies' requested allowable ex parte briefing on November 19<sup>th</sup>. As discussed in the Companies' November 12<sup>th</sup> response to the Google objection, S.C. Code Ann. §58-3-260(C)(6) includes a requirement that interested parties must be given an opportunity to respond to an allowable ex parte briefing by providing a responsive briefing. The ORS proposed schedule would allow more time in January, after the Christmas holidays, for interested parties to schedule responsive briefings if they so choose. The additional time will help to ensure that the statutory scheme of §58-3-260(C)(6) works as intended.

The Companies continue to believe that the early allowable ex parte briefing they have proposed will be helpful to the process of providing information to the Commission in exactly the manner that was intended by the General Assembly in adopting §58-3-260(C)(6). The letters submitted by the ORS, Google, AARP and CCEBA have confirmed that the request for a joint proceeding is novel, the issues raised by the North Carolina legislation are important to South Carolina and the need for an expedited decision is real. Under these circumstances, an early allowable



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ex parte briefing is an excellent tool for the Commission to use to obtain additional information regarding the Companies' request and begin to address the issues put before it by the Companies' petition.

Yours truly,

Frank R. Ellerbe, III

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c (via email): Parties of Record  
Camal O. Robinson, Deputy General Counsel

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